

and near to which is a city or town for the accommodation of mariners and the securing and vending of merchandise. So that in this sense a public port is a complex subject, consisting of somewhat that is natural, as a convenient access from the sea, a safe situation against winds, and a shore upon which vessels may well unlade; something that is artificial, as keys, wharves and warehouses; and something that is civil, as privileges and regulations given to it by the government. A public port often includes more than the bare place where ships lade or unlade; it is sometimes *extended many miles, including several places as

370 members of the port; designating one as a port of entry, and another as a port of delivery. And this is the case in England as well as in this country. *Harig. Law Tracts*, 46; *The Mayor of Hull v. Horner*, Cowp. 107; *The Dock Company v. Browne*, 22 Com. Law Rep. 23; 1706, ch. 14; 1707, ch. 16, s. 6 and 10; 1784, ch. 79, s. 32; Acts Cong. 31 July, 1789, ch. 5; 2 March, 1799, ch. 128.

The public ports are considered as the great gates of the republic, through which all its foreign intercourse by sea is conducted; and, consequently, they can only be established; and must, in some respects, be regulated by that department of the government to which has been delegated the care of its foreign concerns. In England the power to establish ports is one of the prerogatives of the king; *Hale de jure Maris and de Portibus*, 36, 51, 54, 60, 73; 1 *Blac. Com.* 263, *Ball v. Herbert*, 3 T. R. 261; *Blundell v. Catterall*, 7 Com. Law Rep. 91; and by the charter of Maryland a similar prerogative was given to the Lord Proprietary, which he always claimed accordingly. *Chart. Maryl.* s. 10; 2 *Boz. His. Maryl.* 574, 623, 633, 644. But, as all the regulations necessary for the government of ports could not be established by the exercise of such a prerogative alone, several attempts were made by the General Assembly of the Province, as well when the government was in the hands of the Lord Proprietary, as when it was held by the English monarch, to establish and regulate ports; almost all of which failed; because, as it would seem, of the nature of the country, and the peculiar manner in which its trade was then carried on. All the then settlements were within very short distances of one or other of the navigable branches of the Chesapeake; and as tobacco was the chief, or almost only commodity of exportation, which instead of being gathered, as at present, in great masses, at the principal ports, was, after being packed in hogsheads, rolled to the nearest point of a navigable river, to a landing, or to a rolling house, along rolling roads, as they were then called, which were opened and established for the purpose, and so shipped from such places. 1683, ch. 5; 1696, ch. 24, s. 8; 1706, ch. 14; 1707, ch. 16; 1745; ch. 14; *Chal. Pol. An.* 367, 380. (c)

(c) From these circumstances, both in Maryland and Virginia, the public warehouses for the inspection of tobacco were, before the Revolution, often